

# Order

April 1, 2005

123661 & (68)

SHARON BARNES and TIM BARNES,  
Plaintiffs-Appellees,

v

DR. IVANA VETTRAINO, DR. WILLIAM  
BLESSED, PROVIDENCE HOSPITAL,  
AND MICHAEL ROTH, M.D.,

Defendants-Appellants,

and

JANE DOE,  
Defendant.

Received

APR 01 2005

State Court Administrative Office

Michigan Supreme Court  
Lansing, Michigan

Clifford W. Taylor  
Chief Justice

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman  
Justices

SC: 123661  
COA: 235357  
Oakland CC: 00-022089-NH

On order of the Court, leave to appeal having been granted and the Court having considered the briefs and oral arguments of the parties, the order of July 15, 2004 which granted leave to appeal is VACATED and leave to appeal is DENIED, because the Court is no longer persuaded the questions presented should be reviewed by this Court. If plaintiffs do prevail, they should be allowed to recover those damages that are common to medical malpractice actions, but not those damages that are a function of the destruction of the fetus, because an award of the latter type of damages would be violative of Michigan's clear public policy against abortions. *People v Bricker*, 389 Mich 524, 529 (1973), construing *Roe v Wade*, 410 US 113; 93 S Ct 705; 35 L Ed 2d 147 (1973). Plaintiffs' motion to allow amended statement of facts is DENIED as moot.

CAVANAGH, J., concurs and states as follows:

As I do not find contrary to public policy that we should allow enforcement of liability against negligent health care professionals in cases such as this, I concur that leave was improvidently granted and should be denied.

KELLY J., joins the statement of CAVANAGH, J.

p0329



I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 1, 2005  
Inger J. Mager  
Deputy Clerk